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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 CECILIO BADILLO,

12 Plaintiff,

13 v.

14 COMMISSIONER OF SOCIAL SECURITY,

15 Defendant.

Case No. 1:20-cv-00393-SAB

ORDER DENYING APPLICATION TO
PROCEED *IN FORMA PAUPERIS*
WITHOUT PREJUDICE AND REQUIRING
PLAINTIFF TO FILE LONG FORM
APPLICATION

(ECF No. 4)

TWENTY DAY DEADLINE

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18 Cecilio Badillo (“Plaintiff”) filed a complaint in this action seeking review of the final
19 decision of the Commissioner of Social Security denying disability benefits. (ECF No. 1.)
20 Plaintiff did not pay the filing fee in this action and instead filed an application to proceed *in*
21 *forma pauperis* pursuant to 28 U.S.C. § 1915. (ECF No. 2.) The Court reviewed Plaintiff’s
22 application and found that it did not provide sufficient information for the Court to determine if
23 he is entitled to proceed in this action without prepayment of fees. Plaintiff was ordered to file a
24 long form application to proceed *in forma pauperis* within twenty days of March 24, 2020.

25 On April 10, 2020, Plaintiff filed a long form application, however, the information
26 submitted on the April 10, 2020 application is inconsistent with that contained in the March 16,
27 2020 application. In the March 16 application, Plaintiff stated that his wife receives a monthly
28 income of \$2,000.00 per month. In his current application, he states that his wife has had no

1 income over the last 12 months but further down in the application states that she was making
2 \$2,500. per month.

3 The Court also notes that Plaintiff owns a house worth \$250,000.00, and a 2017 Ford
4 Truck, and a 2012 Mercedes which are paid for by his son. Further, upon review of the amounts
5 claimed by Plaintiff for his monthly expenses, the Court finds that some of the amounts are
6 inconsistent with that claimed on the March 16 application and Plaintiff states that his food
7 expenses for a family of three is \$1,000 per month which the Court finds to be incredible given
8 its review of other such applications.

9 Plaintiff is advised that pursuant to Rule 11 of the Federal Rules of Civil Procedure, by
10 presenting a pleading, written motion, or other paper to the Court he is certifying that to the best
11 of his knowledge, information, and belief, formed after an inquiry reasonable under the
12 circumstances: “(1) it is not being presented for any improper purpose, such as to harass, cause
13 unnecessary delay, or needlessly increase the cost of litigation; (2) the claims, defenses, and
14 other legal contentions are warranted by existing law or by a nonfrivolous argument for
15 extending, modifying, or reversing existing law or for establishing new law; (3) the factual
16 contentions have evidentiary support or, if specifically so identified, will likely have evidentiary
17 support after a reasonable opportunity for further investigation or discovery; and (4) the denials
18 of factual contentions are warranted on the evidence or, if specifically so identified, are
19 reasonably based on belief or a lack of information.” Fed. R. Civ. Proc. 11(b). Rule 11 provides
20 for the imposition of sanctions when the Court finds that the Rule has been violated.

21 Accordingly, the Court will order Plaintiff to complete and file a second Application to
22 Proceed in District Court Without Prepaying Fees or Costs (Long Form) – AO 239. If Plaintiff is
23 unwilling to complete and submit the long form application, Plaintiff must pay the filing fee in
24 full.

25 Based upon the foregoing, it is HEREBY ORDERED that:

- 26 1. Plaintiff’s application to proceed *in forma pauperis* is DENIED without prejudice;
- 27 2. The Clerk of the Court is directed to forward an Application to Proceed in District
28 Court Without Prepaying Fees or Costs (Long Form) – AO 239 to Plaintiff;

- 1 3. Within **twenty (20) days** of the date of this order, Plaintiff shall either (1) pay the
2 \$400.00 filing fee for this action, or (2) complete and file the enclosed
3 Application to Proceed in District Court Without Prepaying Fees or Costs (Long
4 Form) – AO 239; and
- 5 4. If Plaintiff fails to comply with this order, this action shall be dismissed for failure
6 to pay the filing fee and failure to comply with a court order.

7
8 IT IS SO ORDERED.

9 Dated: **April 13, 2020**


UNITED STATES MAGISTRATE JUDGE